Indiana. *Held*, that the notes have not a taxable situs in Indiana. *Buck* v. *Beach*, 206 U. S. 392. See NOTES, p. 50.

TITLE OWNERSHIP AND POSSESSION — POSSESSION OF CONTENTS OF RECEPTACLE. — After seizure of his goods under a writ of *fieri facias* the judgment debtor, without the knowledge of the sheriff, placed a sum of money in a piece of the furniture seized. Shortly afterwards he died insolvent. The sheriff having exercised no control over the money, the official receiver claimed it for the estate. *Held*, that the money has been placed in possession of the sheriff so that he is entitled to it. *Johnson* v. *Pickering*, [1907] 2 K. B. 437.

To constitute a valid levy on personal property, the American courts are not so strict as the English in demanding actual seizure by the sheriff, yet both agree that the chattel must be reduced to the legal possession of the officer. *Blades* v. *Arundale*, 1 M. & S. 711; *Minor* v. *Herriford*, 25 Ill. 344. Possession of a chattel is not necessarily identical with possession of its receptacle. To possess the contents a man must know of its existence, or at least consent to assume control of whatever the receptacle may contain. *Merry* v. *Green*, 7 M. & W. 623; *Durfee* v. *Jones*, 11 R. I. 588. And if the possessor of the receptacle exercises no control over the chattel, possession depends on the intent of the person placing the chattel in the receptacle. *Commonwealth* v. *Ryan*, 155 Mass. 523. In the principal case it seems difficult to work out possession of the money in the sheriff. He was wholly unaware of its existence, and he certainly did not consent to accept responsibility for everything the debtor might place in the furniture. Furthermore, the debtor placed the money in the receptacle with intent to keep control, and its possession, therefore, remained in him notwithstanding the sheriff's possession of the furniture.

TREASON — RESIDENT ALIEN'S DUTY OF ALLEGIANCE. — The petitioner, a citizen of the South African Republic, was domiciled in Natal. When that portion of Natal had been evacuated by the British army and occupied by the Boer forces for some months, he joined the latter. *Held*, that he is guilty of high treason. *De Jager* v. *Attorney-General of Natal*, [1907] A. C. 326.

A citizen who renounces his allegiance and joins the enemy during war is guilty of high treason. *Rex* v. *Lynch*, [1903] 1 K. B. 444. An alien also owes a special allegiance to the state and may be guilty of high treason. See *Carlisle* v. *United States*, 16 Wall. (U. S.) 147; *Rex* v. *De la Motte*, 1 East P. C. 53. The present case extends the rule applied to citizens to an alien so long as he remains domiciled, even during his natural sovereign's temporary occupancy of the place of domicile. However strong the decision may appear, there seems no authority for the petitioner's contention that, with the temporary withdrawal of the state's forces, its sovereignty ceases. A belligerent's authority in occupied territory is a manifestation of the stress he puts on his enemy, and the sovereign's rights remain intact. HALL, INTERNAT. LAW, 3 ed., 468. Hence it would seem that wrongs done during the foreign occupation are afterwards cognizable by the ordinary courts. Furthermore, the consideration suggested by the court, that an opposite decision would permit aliens to take such an intolerable advantage of the hospitality extended to them as to swell a small invading force to a large army, seems unanswerable.

TRUSTS — RIGHTS AND LIABILITIES OF THIRD PARTIES — CESTUI ESTOPPED BY TRUSTEE'S MISREPRESENTATION. — A trustee with power of sale gave a deed of trust property containing a recital of full payment of the purchase price, as security for a personal debt. The creditor, with notice of the trust, deposited the deed by way of equitable mortgage with the defendant, who had no notice of the trust or of non-payment. *Held*, that the equities of the *cestui qui trust* and the equitable mortgagee are equal in all other respects, and that of the *cestui* being prior in time prevails. *Capell* v. *Winter*, [1907] 2 Ch. 376. See NOTES, p. 53.

WITNESSES — PRIVILEGED COMMUNICATIONS — WAIVER BY COMMISSION TO TAKE TESTIMONY. — The plaintiff caused a commission to be issued for the examination of her physician. On the defendant's offering the deposition

in evidence the plaintiff objected on the ground that the communication was privileged. *Held*, that the privilege is waived. *Clifford* v. *Denver & Rio Grande R. R. Co.*, 188 N. Y. 349.

The object of the statutes making communications to a physician privileged unless the privilege is waived by the patient, is "to save the patient from possible humiliation; not to enable him to win a lawsuit." See *Schlotterer* v. *Brooklyn, etc., Ferry Co.*, 89 N. Y. App. Div. 508. And the better opinion is that where the patient has voluntarily destroyed the privacy of the testimony, he has shown there is no need of the privilege; its object has then been defeated, and therefore he can no longer object. Accordingly waiving the privilege at one trial precludes setting it up at retrial. *Schlotterer* v. *Brooklyn, etc., Ferry Co., supra*. And the privilege is also lost by the patient presenting evidence of the communication which is ruled incompetent. *Kemp* v. *Metropolitan St. Ry. Co.*, 94 N. Y. App. Div. 322. Moreover, the similar privilege concerning transactions with an attorney is waived by making a sworn statement of the communication before a justice and publishing it in a newspaper. *In Re Burnette*, 73 Kan. 609. In the present case the communication was revealed, hence the obect of the privilege, the preservation of privacy, could not be attained, and the objection was properly overruled. 4 WIGMORE, EVIDENCE, § 2380, *et seq.*

BOOKS AND PERIODICALS.

I. LEADING LEGAL ARTICLES.

TERRITORIAL JURISDICTION IN WIDE BAYS. — The extent to which a littoral state may claim the right of territoriality over its bays was recently considered in two articles. *Territorial Jurisdiction in Wide Bays*, by A. H. Charteris, 16 Yale L. J. 471 (May, 1907); and *The Recent Controversy as to the British Jurisdiction over Foreign Fishermen more than Three Miles from Shore*, by Charles Noble Gregory, 1 Am. Pol. Sci. Rev. 410 (May, 1907). The occasion for this discussion was the holding in a recent Scottish case[1] that a statutory by-law prohibiting trawling in Moray Firth, a triangular sheet of water with an entrance eighty miles wide, applied to foreign fishermen. The decision is right, as the learned authors point out, for though the courts of a state may follow international law in so far as it is the common law of the land, yet the former law, like the latter, may be changed for those courts by a competent act of the legislature. But aside from the local decision there is the broader question whether other nations will recognize this act and whether by such recognition it will become a rule of international policy. Upon this question the articles assemble all the precedents.

In the time of James I, as they point out, by the doctrine of "king's chambers," England asserted jurisdiction over all waters within lines drawn around Britain from headland to headland. In fact, about that time most of the waters surrounding Europe were claimed as the territory of some power. Venice asserted her dominion over the Adriatic, Genoa over the Ligurian Sea, and Sweden and Denmark over the Baltic. Such claims, however, necessarily became more and more untenable, and early in the nineteenth century the freedom of the high seas became a principle of international law.[2] But this principle has not given us at this time any arbitrary rules as to the territorial rights of a state in its bays or as to what constitutes a bay. Mr. Charteris shows that there is only an increasing tendency to some uniformity. Thus he points out that in 1882 in the North Sea Convention, as between themselves, England,

[1] Mortensen *v.* Peters, 14 Scots. L. T. 227.
[2] Hall, Internat. Law, 5 ed., 140 *et seq.*